

IN SENATE OF THE UNITED STATES,

FEBRUARY 23, 1827.

Mr. JOHNSTON, of Louisiana, made the following report :

The Committee of Commerce, to whom was referred the petition of N. Potts and Samuel Clement, assignees of Jacob Clement, have had the same under consideration, and

REPORT :

The claimants demand indemnity from the Government, for the injury and damages sustained by the seizure and detention of their vessels by the Spanish Government.

The Agent of the United States employed two vessels of the claimants to carry provisions to Lagaira, (for the relief of the inhabitants who had suffered from the earthquake,) at the rate of one dollar and a half per barrel. There is no particular contract, but it depends on the general law and usage of shipping. It appears that the vessels arrived in good time, and in good order; but the vessels were not discharged for a considerable time, in consequence of the Agent of the Government not having procured lighters sufficient for their immediate discharge. It does not appear, whether this delay arose from the neglect of the Agent, or the difficulty of procuring vessels in that port, for that purpose. The vessels continued to deliver the cargo, as called for, to the lighters sent by the Agent, until the royal forces recaptured the place, and seized the vessels, under pretence that they were giving supplies to the enemy. The vessels were condemned, in consequence of the want of Consular certificates, but were afterwards restored. The indemnity asked, is for the demurrage and the damages resulting from the seizure and detention, which they allege arose, 1st. From the vessels not having been discharged in proper time, by the neglect of the Agent; and, 2dly, the vessels not having been furnished with the proper papers to protect them. By the general law of shipping, the vessel is bound to put the cargo on shore; and it does not appear, that there is a general exception, in all cases, when lighters are employed; on the contrary, it seems that this obligation exists in all cases, unless there is a particular usage in some particular ports which controls the general law. It is alleged, in this case, that such is the usage in the port of Lagaira, and the testimony of the Mate has been procured to that effect.

Taking it as established, that the Agent of the Government was bound to take the cargo at the vessel, and that he failed to do so, and

that he caused a detention of eighty-nine days, your committee have estimated the demurrage at eight hundred dollars for the detention of each vessel, and have accordingly reported a bill for two thousand dollars, in lieu of all claims.

Your committee are of opinion, that it is the duty of the owners of the vessel to procure all the necessary papers, and that the Government was not required to furnish Spanish consular certificates; and if the vessels were seized in consequence of not having the necessary documents, which all vessels at that time were obliged to obtain, it is the fault of the owners, who thereby took the risk on themselves, so far at least as regarded the vessel.

It is alleged that, in consequence of the detention of the vessels for eighty-nine days, the bottoms were eaten by the worms, the sails greatly injured, and the vessels otherwise so much injured, as to be almost a total loss. If the vessels had been provided with the Consular certificate, they would not have been seized or condemned, and, consequently, no damages would have accrued. Having failed to do what the law requires, the consequences will fall on their neglect. Besides, the owners of the vessels were bound to have insured themselves against all the dangers to which they were exposed. They believe that, under the peculiar circumstances of the case, the demurrage ought to be allowed, and report a bill.

This report applies to the case of Abraham Ogden, and others, for whom they also report a bill.